

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LETICIA PINEDA, formerly known as  
Ricardo Pineda,

Defendant.

NO: 2:15-CR-84-RMP

ORDER MEMORIALIZING ORAL  
RULING

The Court held Defendant Leticia Pineda's sentencing hearing on February 9, 2016. During Defendant's sentencing hearing, the Court orally ruled on Defendant's Motions for Downward Departure, **ECF Nos. 30 and 31**. Defendant was present and represented by Assistant Federal Defender John B. McEntire, IV. The Government was represented by Assistant United States Attorney Stephanie Van Marter. This Order is entered to memorialize the Court's oral rulings.

**FAMILY CIRCUMSTANCES**

Defendant moved for a downward departure under U.S.S.G. § 5H.16 on the basis that any incarceration of Defendant would wreak "extraordinary destruction

1 on dependents who rely solely on the defendant” for their care. ECF No. 31 at 2–3  
2 (quoting *United States v. Johnson*, 964 F.2d 124, 129 (2d Cir. 1992)). Defendant  
3 argued that Defendant “is an irreplaceable caretaker for her mother, Maria Garcia.”  
4 *Id.* at 3. Defendant noted that Ms. Garcia suffers from a variety of physical and  
5 mental health conditions and that Defendant is Ms. Garcia’s exclusive caretaker.  
6 *Id.* Further, Defendant contended that there are no other family members that can  
7 replace Defendant’s caretaking responsibilities. *Id.*

8 The Court found that Defendant was not an irreplaceable caretaker for her  
9 mother. The Court noted that Ms. Garcia had options available to her during  
10 Defendant’s incarceration, including receiving assistance from family members in  
11 Moses Lake or Wellpinit, Washington or from the state government. Further, the  
12 Court was troubled by the lack of objective medical corroboration in the record for  
13 Ms. Garcia’s alleged conditions. *See id.* (noting that an exact diagnosis is unknown  
14 for Ms. Garcia’s mental health disorder). The Court concluded that Defendant’s  
15 incarceration would not constitute an insurmountable hardship to Ms. Garcia, and  
16 consequently denied Defendant’s motion for downward departure.

#### 17 **OVER-REPRESENTATIVE CRIMINAL HISTORY**

18 Defendant moved for a downward departure under U.S.S.G. § 4A1.3(b)(1) on  
19 the basis that Defendant’s criminal history category substantially over-represented  
20 the seriousness of her criminal history. ECF No. 30. Due to the early relevant  
21 conduct date of Defendant’s offense, Defendant had seven criminal history points,

1 resulting in a Criminal History Category of IV. ECF No. 25 at 15. Defendant  
2 argued that four of Defendant's criminal history points are for conduct that  
3 occurred when Defendant was a minor, over eighteen years ago. ECF No. 30 at 2.  
4 Further, Defendant noted that the convictions were for driving with license  
5 suspended offenses. *Id.* at 3. Defendant concluded that a downward departure was  
6 warranted, and requested that the Court drop Defendant's Criminal History  
7 Category from a IV to a II. *Id.* at 5.

8 The Court found that a Criminal History Category of IV substantially over-  
9 represented the seriousness of Defendant's criminal history. The Court noted that  
10 the three convictions occurred in 1998, when Defendant was seventeen years old.  
11 Further, the Court found that the three convictions would not have been counted  
12 but for the early relevant conduct date of Defendant's offense. Finally, the Court  
13 concluded that, as dated traffic offense convictions accrued when Defendant was a  
14 juvenile, the three convictions resulted in a Criminal History Category that  
15 substantially over-represented the seriousness of Defendant's criminal history.  
16 Therefore, the Court shifted Defendant's Criminal History Category from a IV to a  
17 II, with a new guideline range of 12-18 months.

18 Accordingly, **IT IS HEREBY ORDERED:**

- 19 1. Defendant's Motion for Downward Departure Based on Overrepresented  
20 Criminal History, **ECF No. 30**, is **GRANTED**.

Circumstances, **ECF No. 31**, is **DENIED**.

**DATED** this 10th day of February, 2016.

ORDER MEMORIALIZING ORAL RULING ~ 4